

United States of America
Before the National Labor Relations Board

Paragon(Employer)

February 26, 2018

And

FAP Union (Petitioner)

And

National League of Justice and Security Professionals

NLJSP (Intervener)

**In RE 05-RC-205598 National League of Justice and Security Professionals
(NLJSP) Community of Interest**

These electors having a divergent community of interest are employees under the Service Contract ACT (SCA). The wages , benefits and workplace rules grow from wage determinations issued by the Department of Labor and workplace rules including mandatory issues for bargaining like grooming issued by the Department of Homeland Security. There is evidence that Secureamerica LLC is the Successor to Paragon at the 400 Maryland Ave SW location severing close to one-half of the electors in the instant case and is more than simply a **Burns Successor** as in 406 US 272 (1972) and is instead a “perfectly clear successor” because of the inclusion of Executive Order 13495 for the Non-

displacement of Qualified Workers incorporated as 48 CFR 52.222-17.

Secureamerica LLC assumed the role of Successor Employer on December 1, 2017. The severed electors (employed at 400 Maryland Ave SW) have no community of interest with their former colleagues at 550 12th Street SW. that remain in the employ of Paragon Security, the titled employer in the instant case. The ballots in the instant case have been impounded because of the appeal of a pending ULP case by the Intervener.

Motion to Overturn Decision of Regional Director to Overrule Challenged Ballots

The Intervener seeks reversal of the Order issued February 12, 2018 by the Director of Region Five overruling administratively challenges made to ballots cast in the instant case by Electors that have been removed from the bargaining unit by actions of the US Department of Homeland Security. The inclusion of electors temporarily laid off as in ***Dredge Operators Inc. 306 NLRB 924*** or those that have on their own accord left employment must be viewed differently than those that have been deliberately removed by actions of the US government. The particular circumstance of one bargaining unit being split into two by actions of the Department of Homeland Security effective December 1, 2017 should render uncounted ballots in the hands of Region Five cast by electors employed by the Successor

Employer at 400 Maryland as voided ballots and never counted.

The normal practice would be to open these ballots because these electors were valid electors when the election proceeded despite a properly filed ULP against Employer Paragon. That practice is inappropriate in the instant case because of US Government acts.

Argument in Favor of Successor Bar

The Intervener notes that as Secureamerica LLC is the perfectly clear Successor to Paragon for one-half of the Department of Education guards particularly those employees at 400 Maryland Ave SW. The Intervener further notes that at the time of contract changeover the Intervener was the certified 9(a) representative and as such is due an irrebutable presumption of majority. This position is based on the Intervener's interpretation of applicable case law in ***UGL-UNICCO 357 NLRB 76(2011)***.

The Intervener asserts that the petition in the instant case is untimely under the Successor doctrine as it is applied to 400 Maryland Ave SW and should be rerun. The Intervener further asserts that as Paragon is no longer the Employer for roughly one half of the electors in the instant case the case should be dismissed in that any ballots cast in the instant case would only affect those employees at 550 SW 12th Street because of the divergence of interests on December 1, 2017. Any election held will not affect those employees now at 400

Maryland Ave so there is clearly no purpose for their ballots to be opened. The outcome of any election would only affect Paragon employees at 550 12th Street SW Washington DC who remain employees of Paragon. The electors employed by Secureamerica LLC operating out of 400 Maryland Ave. SW have been allowed to vote on the question of representation in the instant case but would have no representation in that Paragon is no longer their Employer. It is only under the Successor Doctrine that there is a 9(a) representative at 400 Maryland Ave SW. Proceeding with the election would serve no purpose and as such the election in the instant case be subjected to a runoff for just those electors employed by Paragon at 550 12th St. SW because of the tie in counted unchallenged ballots. The Intervener has proceeded to complete negotiations for the Secureamerica LLC unit at 400 Maryland SW and is close to a three year collective bargaining agreement.

Submitted to NLRB by NLJSP

Sincerely,

Ronald A. Mikell, President

NLJSP

Cc FAP

NLRB Region 5

Laura Hagan Paragon Security